

**BY ORDER OF THE SECRETARY OF THE
AIR FORCE**

AIR FORCE INSTRUCTION 64-101

3 JUNE 1994



Contracting

**CABLE TELEVISION SYSTEMS ON AIR
FORCE BASES**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements AFR 64-1, *Contracting*, and sets guidelines for obtaining Cable Television (CATV) services consistent with the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992. Interpret this instruction flexibly to obtain the best possible CATV service at a reasonable price. This instruction does not apply to the Air National Guard.

SUMMARY OF REVISIONS

This revision incorporates many of the requirements, information, and procedures formerly in AFR 70-3; and reorganizes text.

Chapter 1

RESPONSIBILITIES

1.1. Support Group Commanders:

- Are the CATV Franchising Authority. Approve and sign the Franchise Agreement.
- Determine whether to take delivery of CATV services from private CATV operators.
- Appoint a project manager (PM). The Communications and Computer Systems Officer (CSO) will normally be the OPR.
- Assign other subordinate responsibilities.
- Approve the system description and requirements in the purchase request.

1.2. Project Manager:

- Defines the requirement in the purchase request.
- Prepares the statement of work assisted by the Base Civil Engineer (BCE) and the CSO.
- Estimates the number of potential customers.
- Coordinates the activities of supporting organizations.

1.3. Base Contracting Office:

- Decides how to solicit and negotiate proposals.
- Evaluates proposals assisted by the PM, BCE and CSO.
- Awards contracts for CATV services.

1.4. Base Civil Engineer (BCO):

- Surveys potential installation sites to determine if special problems or conditions exist.
- Helps prepare the statement of work and evaluate proposals.
- Provides utility services to the CATV operator.
- Gives excavation permits to the cable system operator.
- Executes base real estate or pole lease agreements.

NOTE:

The Air Force is authorized to grant easements and right of ways by 16 U.S.C. 42 and 43 U.S.C. 961.

1.5. Communications and Computer Systems Officer:

- Helps prepare the statement of work and evaluate proposals.
- Is the quality assurance evaluator (QAE) ensuring that CATV services comply with technical parameters.

1.6. Base Visual Information Manager (BVIM):

- Manages government access channel video recording and playback equipment.

- Helps the support group commander and public affairs officer (PAO) with local government access channel video production.

1.7. Base Subscribers. Base appropriated and nonappropriated fund activities must identify, justify and fund their requirements. Family housing subscribers identify and fund their requirements.

1.8. SAF/AQCO. SAF/AQCO approves the acquisition, installation, and operation of an Air Force-owned CATV system.

1.9. Base Legal Office (BLO) or Staff Judge Advocate (SJA). Provides legal advice to base personnel on CATV issues.

1.10. SAF/GCQ. Provides legal policy on CATV issues.

1.11. Public Affairs Officer (PAO). Helps the support group commander and BVIM with local government access channel video production.

Chapter 2

FRANCHISE AGREEMENTS

2.1. Requirements. Private CATV operators must obtain a nonexclusive franchise in accordance with this instruction before offering on-base services.

2.2. Franchising Procedures. The BCO must award new CATV franchises competitively.

2.2.1. Contracting officers make every reasonable effort to solicit offers from all potential CATV operators. Annexation of part or all of the base by a nearby community does not limit the base to a CATV operator franchised by the community.

2.2.2. After considering physical resource (for example, communication ducts, pole capacity, and space for offices, equipment and storage) and personnel resource (for example, contracting, quality assurance, and security) availability, support group commanders are encouraged to award additional franchises. Even when an exclusive franchise has already been awarded, support group commanders are encouraged to solicit proposals or consider unsolicited proposals from CATV operators willing to compete with the existing CATV franchisee.

2.2.3. The contracting officer:

- Makes pertinent data available (with help from the base civil engineer) to all potential franchise holders, including the location of:
- Potential subscribers.
- Utility poles.
- Underground conduits.
- Electrical power sources.
- Supplies other information required to estimate the cost of installing an on-base CATV system.
- Consults with the responsible PM, BCE, BLO/SJA, and CSO when determining whether proposals meet technical requirements.
- Modifies franchise agreements consistent with the intent of this instruction.
- Negotiates franchise agreements not to exceed 10 years. Such agreements should include the government's right to terminate the agreements for convenience.

NOTE:

Because such a termination may deny the franchisee an opportunity to recover its capital investment, the government could incur any liability specified in the agreement. Before terminating a franchise agreement for convenience, the base or command contracting office determines if sufficient appropriated funds are available to cover the potential termination liability.

2.2.4. BCOs use the Model Franchise Agreement (MFA) contained in AFMAN 64-114, *Cable Television (CATV) Systems on Air Force Bases Manual*, to solicit new and renewal agreements. Support Group Commanders, as the Franchise Authority, sign the Franchise Agreement.

NOTE:

When issuing the solicitation for Franchise Agreements, price is not a proper evaluation item. Contract actions to acquire CATV services will be processed separately. Consider price at that time. However, the Franchise Agreement must require uniform rates for all subscribers. Additionally, the Franchise Agreement cannot guarantee a minimum number of subscribers.

2.3. Renewing a Franchise:

2.3.1. Renew CATV franchises if they meet the requirements of 47 U.S.C. 546. To renew, the franchisee must:

- Substantially comply with the terms of the existing franchise.
- Provide reasonable service, including signal quality, response to complaints, and billings.
- Submit a reasonable renewal proposal to meet the future cable needs of the community.
- Possess the financial, legal, and technical ability to provide the services offered in their renewal proposal.

2.3.2. The BCO, with the help of the QAE, maintains records of the incumbent's performance, notices of deficiencies, and requests for remedial action that would justify denying renewal.

2.3.3. After receiving notice that a franchisee intends to seek renewal, the BCO determines whether to use formal or informal renewal procedures.

2.3.4. Apply informal procedures if the franchisee performance has been satisfactory and no significant renewal issues are anticipated.

2.3.4.1. Under informal procedures, the contracting officer directs the franchisee to submit a renewal proposal by a specified date for careful review pursuant to 47 U.S.C. 546(h). The support group commander should invite the base community to provide comments on the proposal.

2.3.4.2. After reviewing the proposal and the comments, the support group commander may grant or deny renewal. If renewal is denied, the incumbent may request formal procedures.

2.3.5. Under formal procedures, the support group commander notifies the base community of the renewal request, seeks comments and must comply with 47 U.S.C. 546 (a) - (h).

2.3.5.1. The support group commander asks the franchisee to submit a renewal proposal that includes all information necessary to decide for or against renewal.

2.3.5.2. Within 60 days after receiving the renewal proposal, the support group commander decides to renew or issues a preliminary decision not to renew. If a support group commander decides not to renew, initiate administrative proceedings within 20 working days according to the procedures detailed in AFMAN 64-114.

2.3.6. It is not a renewal, and does not entitle a renewal, if the support group commander cannot complete the renewal proceedings before the expiration of the franchise agreement, or if the contracting officer must temporarily extend the term of the franchise and includes the provision that the extension is temporary.

Chapter 3

OBTAINING CATV SERVICE

3.1. Base Subscribers:

3.1.1. The franchise agreement only grants the CATV operator only the right to enter a base to offer CATV services to potential subscribers. The franchise agreement is not a contract to provide CATV services. Award contracts separate from the franchise agreements. Franchise agreements do not obligate any individual subscriber or nonappropriated, or appropriated fund activity to purchase CATV service.

3.1.2. An appropriated fund activity's decision to purchase CATV service is a decision completely separate from the support group commander's decision to grant a franchise. Franchise agreements and CATV contracts are different instruments; contracting officers must not combine them. Contracting officers purchase CATV services using Part 13 of the FAR. If more than one CATV operator is franchised to provide service to the base, contracting officers use normal competitive procedures and must acquire CATV services by bilateral written contract. Purchase orders may be used if only one franchise has been awarded.

3.1.3. Nonappropriated fund activities and individual subscribers enter into individual agreements with private CATV operators for CATV service. Where the Air Force operates a CATV system, non appropriated fund activities and individual subscribers must pay a pro rata share of any program fees the Air Force is charged.

3.2. Rate Regulation:

3.2.1. The support group commander, as Franchise Authority, may regulate the rates for basic CATV service if the Federal Communications Commission (FCC) decides that a particular cable system is not subject to effective competition. 47 U.S.C. 543(1)(1) defines effective competition. The Commission presumes a cable system is not subject to effective competition, and the support group commander may rely on this presumption unless actual evidence to the contrary is available. The CATV operator may rebut this presumption by providing evidence of effective competition to the Commission. Franchise Authorities, in consultation with their BLO or SJA, must ensure the CATV operator does not charge excessive rates.

3.2.2. Before support group commanders regulate the rates for basic cable service, they obtain certification from the Commission.

3.2.2.1. Request FCC Form 328, **Certification of Franchising Authority to Regulate Basic Cable Service Rates and Initial Finding of Lack of Effectiveness Competition**, from: FCC, Cable Form Request; P.O. Box 18238, Washington DC 20036. With BLO or SJA assistance, complete the form and send it by registered mail.

3.2.2.2. The certification automatically takes effect 30 days after filing unless the Commission expressly denies it. The Commission doesn't notify support group commanders that the certification is in effect.

3.2.3. Support group commanders inform CATV operators that they are certified by the FCC and expressly state they will follow the Commission's rate regulations.

3.2.4. CATV operators file schedules of rates for basic service, tier, and accompanying equipment with the Franchise Authority within 30 days of receiving notice from support group commanders that they are FCC certified.

3.2.5. Support group commanders consult with their local Judge Advocate General, SAF/AQCO, and SAF/GCQ to decide if the CATV operator's rates are reasonable under 47 U.S.C. 543 and Commission regulations. Continue to pay the CATV operator's rates until a formal rate regulation finding has been made.

Chapter 4

REQUIREMENTS

4.1. AF Form 9, Request for Purchase. When determining appropriated fund requirements, balance cost and technology, including future expansion. The costs of meeting requirements such as broadcast facilities and equipment for a public emergency access are passed on to all subscribers.

4.2. System Requirements. Under the Cable Act, the support group commander may set requirements for facilities and equipment but may not set requirements for video programming or other information services.

4.2.1. The BCO should enforce franchise agreement provisions requiring broad categories of video programming or other services. For example, the BCO may require the CATV operator to provide premium movie channels, sports, children's, religious and 24-hour news programming

4.2.2. The BCO may not require CATV operators to provide a certain superstation or premium movie channel.

4.3. Technical Requirements. Support group commanders may require that the CATV operator comply with the minimum technical standards and signal quality as prescribed by the Commission regulations established pursuant to 47 U.S.C. 546 and those identified in the MFA. Since the FCC may change these standards, the BCO (with the assistance of the BLO/SJA) modifies contract instruments and franchise agreement as required.

4.4. Installation Requirements. The MFA identifies general standards for installation and construction. The franchise agreement may include other industry standards with the approval of the BCE and the CSO.

4.5. Prewired Facilities. In accordance with the Air Force policy on prewiring facilities for communications and computer systems, the base may install CATV wiring as a part of construction and alteration projects. New franchise agreements and renewals of existing agreements must include specific provisions covering disposition of this wiring (use, ownership, and responsibility for maintenance, repair and modification).

Chapter 5

ADMINISTRATION

5.1. Status of Existing CATV Agreements and Contracts. Unless otherwise directed by SAF/AQCO, all CATV franchise agreements and contracts that the Air Force enters before the effective date of this instruction continue in effect until their expiration dates. The Air Force will not enforce provisions in such agreements or contracts that conflict with the Cable Act. The Air Force will renew or accept competitive offers for such agreements after expiration according to this instruction.

5.2. Excavation Permits and Safety Clearances. CATV operators must obtain excavation permits and safety clearances through the PM/QAE from the base civil engineer before undertaking any installation or other substantial construction.

5.3. Subscriber Complaints. Subscribers should direct complaints about CATV service to the CATV operator or FCC. The QAE monitors the operator's compliance with the franchise agreement, including provisions concerning response to subscriber complaints.

Chapter 6

USE AND SUPPORT OF ON-BASE CATV SYSTEMS

6.1. Using Reserved Government Access Channels:

6.1.1. The support group commander sets rules and procedures for using government access channels according to the needs and interests of the base community. The support group commander may include these rules and procedures in the franchise agreement.

6.1.2. The Air Force must avoid both the fact and the appearance of underwriting a commercial CATV service. Support group commanders may therefore not require Air Force members to subscribe to such a system.

6.1.3. No commercial advertising will appear on Government access channels during periods of government use.

6.1.4. The support group commander may insist through the franchise agreement that government access channels not broadcast off base to non-Air Force subscribers during government use.

6.2. Using Other Channels for Internal Information Programming. The Air Force must separate internal information programming from civilian commercial or educational programming. Consequently, a base may not demand or use time on any CATV channel, other than government access channels for internal information activities.

6.3. Programming Support for CATV System Operators. The support group commander must give as much support and assistance to CATV operators that originate local programming as to local television stations.

6.4. Managing Reserve Government Access Channels. These guidelines apply:

6.4.1. The video equipment that originates and transmits access channels may be located in the Base Visual Information Service Center (BVISC). BVISC personnel may operate this equipment to the extent existing personnel resources allow support to the Public Affairs Office.

6.4.2. Provide 24 hour access to equipment to allow the programming OPR to insert emergency announcements.

6.4.3. Procure equipment that non-experts can use.

6.4.4. Use of local government access channel production equipment and facilities for simple recording, editing and playback of local interest items as determined by the support group commander and PAO in coordination with the BVIM is allowed. Local production may not include Audiovisual Production as described in AFI 33-117.

6.4.5. Table of Allowance 629, Part ZB lists approved equipment for local government access channel production.

6.4.6. Use contractors to maintain Air Force-owned (or leased) origination equipment. If CSO has the budget to keep television maintenance personnel on staff, they may perform routine maintenance if the unit commander agrees.

6.5. Cable and Satellite Service Overseas:

6.5.1. The American Forces Information Service, OASD(PA), through the Armed Forces Radio and Television Service Broadcast Center, is the only source authorized to negotiate for, procure, and distribute commercial and public broadcasting service to US forces overseas. The American Forces Information Service must approve requests to bring additional radio and television broadcasting to US forces overseas via non-AFRTS cable distribution systems (according to Department of Defense 5120.20-R, *Armed Forces Radio and Television Service (AFRTS)*, December 17, 1991).

6.5.2. Do not include Armed Forces Radio and Television Service (AFRTS) on commercial cable systems without the prior approval of AFIS/AFRTS.

6.6. CATV Panel. CATV service involves issues that may cross several lines of responsibility and expertise. Support group commanders may prefer to form a standing committee to manage and coordinate CATV affairs. Members or advisors to the panel may include the PAO, BVIM, BCE, CSO, Contracting Officer, Services Chief, Chaplain, military community, and base advisory counsel representatives.

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